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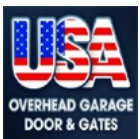
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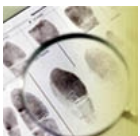
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## Smoking Task Force: Clearing The Air On A Slippery Slope

03/11/2010

Thursday, March 11 - By WeHo News Staff, West Hollywood

West Hollywood, California (March 11, 2010) - The inaugural meeting of the West Hollywood outdoor smoking ordinance task force got under way with a clearing of the air and ended up on a slippery slope.

City Manager Paul Arevalo, chairing the first meeting, cast the task before the panel of anti-smoking advocates, residents and commercial interests as advisory, saying, "I've been charged with bringing the city council an ordinance regarding smoking, and that's what I'm going to do."

Mr. Arevalo said his direction from council was to use Los Angeles' recently passed ordinance as a foundation for WeHo's, "Recognizing it's not a done deal yet, but we'll be using that."

Business leaders, however, made it clear they opposed any ordinance at all, calling into question the ordinance's rationale, provenance and warning of a "slippery slope" leading to a citywide outdoor smoking ban which would include multi-unit housing complexes.

Los Angeles' ordinance bans smoking within ten feet of outdoor dining areas and entrances to eateries and 40 feet within mobile food trucks. It does not include nightclubs serving ages 18 and up.



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Mayor Abbe Land, who co-sponsored the initiative, promised that no law would be rushed to implementation, citing the economic times.

Setting the table for the discussion, Mr. Arevalo asked a show of hands of people on the panel who feel smoking outdoors should be banned citywide.

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The primary proponent of a ban, Steve Gallegos of Glendale, Chair of the Coalition for a Tobacco-Free Los Angeles County and representing West Hollywood Smoke-Free Apartments and Condos Coalition under contract with FAME Health Services, made his bid for a citywide ban, saying, "what we want to do is help people who don't want to be exposed to second hand smoke, offer them protections."



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Mr. Arevalo then asked if people on the task force thought there should be no ordinance, and over half the panel's hands shot up.

One merchant warned of the precedent a ban in nightclubs and dining areas represents for encroachment. Richard Grossi, owner of Eleven, called it a "back door to prohibition, and we know prohibition never works."

Holding up their two positions as polar opposites, Mr. Arevalo said his job was to create a law that crafted a compromise between them.



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Bo Trumbull, representing SBE, a nightclub/restaurant concern that owns several properties in West Hollywood, challenged the premise by pointing out that one of those poles included a West Hollywood resident and business owner and the other, "is an outside consulting company coming in and offering their input into a desired policy."

Push back from commercial interests on the panel came hard and heavy, with Trip Wilmot, owner of East-West Lounge, challenging the ordinance's motivations, asking if West Hollywood had become a follower.



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Mayor Land responded that the ordinance "is an effort to reclaim that leadership in public health."

Mr. Wilmot retorted, "What's next No soda? No fried foods? Do we start weighing our customers?"

He declared the ordinance a solution in search of a problem, saying the public health risk associated with outdoor exposure to second hand smoke remained unquantified.

Other business owners on the panel offered up concerns. Pat Rogers, who sits on the Business License Commission and owns Here Lounge, said that the paternalism he saw in crafting a ban gave him pause.



Steve Gallegos of Glendale, Chair of the Coalition for a Tobacco-Free Los Angeles County and representing West Hollywood Smoke-Free Apartments and Condos Coalition under contract with FAME Health Services, played the role of chief proponent of the ban. Photo by WeHo News.



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"My mother died from emphysema from smoking, so I'm not a big supporter of smoking at all, but I'm extremely uncomfortable with telling people how to live their lives," he said.

Mr. Gallegos, who took on the role as chief proponent for the measure, replied that his organization sought to hold smokers, "responsible for their second hand smoke they created," equating the proposed ban with laws passed to dissuade people from posing a public health risk by driving under the influence of alcohol.



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Consultants representing several entities came forward with concerns on both sides. Sandy Hutchins said he had clients with dining establishments on the Sunset Strip who would like to see

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Transportation Commissioner Scott Schmidt expressed skepticism about the reasoning for the ban with a 21 question list beginning with, as he put it, the most important question: What is the purpose of drafting an ordinance to ban smoking on outdoor areas of bars and nightclubs within the City?

If the ordinance's objective is to protect people from exposure to second hand smoke, he argued that "the status quo is the best way to accomplish that. People [already] know where the smokers are going to be."



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Suggesting that passing an ordinance to push smokers onto the streets creates a "slippery slope" on which the populace can expect further attempts to ban smoking from sidewalks and outdoor commons areas of multi-unit residences, Mr. Schmidt requested the task force gain a "guarantee" that future city councils cannot target "people's homes, because we saw in Santa Monica, that's what happened; that's where is going."

Refuting claims made by advocates that banning smoking outdoors either has no effect on or improves business in cities where it's been tried, he also pointed at a January 16, 2010, article in the French magazine Le Journal du Dimanche that reports one year after smoking was banned at the city's outdoor cafes 2,000 sidewalk cafes have gone out of business.

According to Sareena Kanji of FAME Health Services, with whom Mr. Gallegos has worked for five years to abolish smoking outdoors in multi-unit residences, that 84 percent of residents do not smoke and 96.4 percent "believe that second hand smoke is harmful to their health."



Nic Adler, owner of the Rainbow Room and part owner of the neighboring Roxy Theater, alongside David Cooley, founder of The Abbey and co-owner of SBE. Photo by WeHoNews. Click here to see full sized image.



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Additionally, she asserted, "West Hollywood residents deserve to be protected from unwanted second hand smoke where they eat, where they play and where they live."

Attorney David Codell, renowned for making the successful argument before the CA Supreme Court in the historic same-sex marriage case, buttressed Ms. Kanji's point, advocating the rights of non-smokers to "enjoy West Hollywood's weather and the beauty of our outdoor environment free from being exposed to toxins we all know cause illness and death to those who are in the vicinity."

He called the assertion that "smokers have some kind of right or freedom to smoke in public sad and laughable; no one has freedom to impose harm on the people around you."



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Mayor Abbe Land at the West Hollywood outdoor

smoking ordinance task force. Mayor Land said, "We knew we had started this process, we were going straight for outdoor common areas. In the slippery slope scenario, we were at the other end."

He and his organization simply jumped aboard the train as it left the station by signing onto the ordinance.

Furthermore, he said, "Slippery slope arguments have no validity in logic. They are just efforts to appeal to fear, fear of the unknown."

Yet according to Ms. Kanji in an interview afterward, "Slippery slope is not based in fear. We would like to stop smoking in all outdoor areas to protect people."



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"We feel that [the ban in outdoor dining and nightclub areas] is the most important priority because it'll impact residents and visitors," he said.

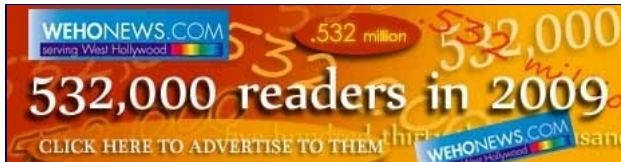
Other public testimony included the owner of a hookah bar/restaurant who warned that such a ban would close his business, a restaurateur with an expansive outdoor patio on which half of his clientele smokes and a land use expert who warned of not dealing with the eventual litter problems through an Environmental Impact Report.

Summing up the day's work, Mr. Arevalo said that "the ordinance that comes back will have all of your input, will have all of the parameters set, there'll be ranges so the council can see different levels of scope and the council will be making the policy decision."

The next meeting of the task force will be to analyze the Los Angeles ordinance, with additional meetings to study what other cities have done, including a meeting dedicated to enforcement.



> Mayor Abbe Land at the West Hollywood outdoor smoking ordinance task force with Christopher Street West Chair Rodney Scott in the foreground. Photo by WeHo News.



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